

Clearly the restriction requirement cannot be justified on the ground that the subcombination has utility by itself, since all of the claims of the elected group, namely claims 1-18 requires the column in the preamble. Thus the subcombination does not have utility by itself or, as claimed, in other combinations.


The Examiner has, however, asserted that the combination as claimed does not require the particulars of the subcombination because the column can use a dividing wall or no wall at all.

The first part of this claim is not correct. A side by side comparison of claim 1 with claim 19 shows that claim 19 requires the structure of claim 1 and thus, as claimed, the combination does indeed require the particulars of the subcombination as claimed for patentability and utility. It is possible that a column can use a dividing wall different from the partitions of the subcombination claims and that columns can operate with no wall at all, but that is not the test. The fact is that whether or not the combination can operate without the subcombination is not the test prescribed in Section 806.05(c) of the Manual of Patent Examining Procedure. The question, in judging the combination, is whether the combination would be patentable without the subcombination and clearly applicants do not believe so and the Examiner has not suggested that it would be so.

Accordingly, there is no justification for a restriction requirement between combinations and subcombinations here and that

restriction requirement is respectfully traversed. Applicants respectfully request an Action on the merits of all the claims.

Respectfully submitted,
The Firm of Karl F. Ross P.C.



By: ~~Herbert Dubno~~, Reg. No. 19,752
Attorney for Applicants

ef-
8 October 2002
5676 Riverdale Avenue Box 900
Bronx, NY 10471-0900
Cust. No.: 535
Tel: (718) 884-6600
Fax: (718) 601-1099